IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 180 OF 2007

IN

WRIT PETITION NO. 8911 OF 2004

Jai Ambe Flour Mill. .. Appellant.

vs.

Ramkhelawan P. Maurya

& Ors. .. Respondents.

Ms. A.D. Shetty with Ms. Rita Joshi for Appellant.

Mr. D.B. Shukla for respondent no.1.

CORAM: J.N. PATEL &

A.A. SAYED, JJ.

DATE: 10TH SEPTEMBER, 2007.

P.C.

. Heard the learned counsel for the parties.

2. This Letters Patent Appeal has been filed by the employer aggrieved by the decision of the learned Single Judge rejecting the application of the employer for grant of interim relief. The learned counsel for the appellant submitted that the learned Single Judge has not taken into consideration the decision of the

Division Bench of this Court in the case of Umashankar Jaswal v. Royal Auto Centre, reported in 2007 I CLR 928 by applying the test laid down by the Supreme Court in the case of Bangalore Water Supply reported in AIR 1978 SC 548 and that the matter be examined on merits. But in view of the fact that the findings are in favour of the respondents, we find that the discretion exercised by the learned Single Judge in rejecting the application for interim relief was just and proper and does not call for any interference as it does not suffer from any error or illegality. Needless to say that the reasoning recorded by the learned Single Judge in the impugned order while rejecting the application for interim stay cannot be considered to be a decision on merits. As such, while deciding the writ petition on merits, the questions raised in the writ petition will be independently examined.

3. The Letters Patent Appeal stands dismissed accordingly. No order as to costs.

4. In view of the dismissal of the appeal, the civil application does not survive. The same is dismissed as infructuous.

(J.N. Patel, J.)

(A.A. Sayed, J.)